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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,622	07/27/2006	Sang-mok Sohn	4900-0012	7414
22429	7590	02/17/2009		EXAMINER
LOWE HAUPTMAN HAM & BERNER, LLP			ALPHONSE, FRITZ	
1700 DIAGONAL ROAD			ART UNIT	PAPER NUMBER
SUITE 300				2112
ALEXANDRIA, VA 22314				
		MAIL DATE	DELIVERY MODE	
		02/17/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,622	<b>Applicant(s)</b> SOHN ET AL.
	<b>Examiner</b> FRITZ ALPHONSE	<b>Art Unit</b> 2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on **27 July 2006**.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-9 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is in regard to the application filed on 7/27/2006. Claims 1-9 have been presented for examination.

#### *Election/Restrictions*

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I: Claims 1-6 drawn to a method of providing a multimedia messaging service using a mobile communication network, comprising the steps of: a) storing a multimedia message transmitted from an originating mobile station; b) informing a receiving mobile station of arrival of the multimedia message; c) transmitting the stored multimedia message to the receiving mobile station if download request is received from the receiving mobile station; and wherein the multimedia message stored at step a) includes a unique message identifier distinguished from file information of other multimedia messages stored to be retransmissible; (as in claim 1). Claims 1-6 are classified in class 714 subclass 748.

Group II: Claims 7-9, drawn to a method of providing a multimedia messaging service using an external Video-on-Demand (VOD) server, comprising the steps of: a) allocating a user's unique identifier to a requested moving picture multimedia message and storing the moving picture multimedia message with the unique identifier, if a request for transmission of the moving picture multimedia message is received from an originating mobile station; b) informing a receiving mobile station of arrival of the moving picture multimedia message; c) allowing the receiving mobile station to access the external VOD server, if a download request for the stored multimedia message is received from the receiving mobile Station; d) the external VCI) server reading the moving picture multimedia message from a database with reference to unique

identifier information of the requested multimedia message; e) the external VOD server transmitting the read moving picture multimedia message in a streaming manner; and f) the external VOD server informing a Multimedia Messaging Service (MMS) relay server of termination of the transmission using a message including the unique identifier of the multimedia message, if the transmission of the moving picture multimedia message has terminated, (as in claim 7). Claims 7-9 are classified in class 455 subclass 466.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions Group I, Group II and Group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.

In the instant case, subcombination Group I has separate utility such as “storing a multimedia message transmitted from an originating mobile station; b) informing a receiving mobile station of arrival of the multimedia message; c) transmitting the stored multimedia message to the receiving mobile station if download request is received from the receiving mobile station; and wherein the multimedia message stored at step a) includes a unique message identifier distinguished from file information of other multimedia messages stored to be retransmissible.” See MPEP § 806.05(d).

In the instant case, subcombination Group II has separate utility such as “a method of providing a multimedia messaging service using an external Video-on-Demand (VOD) server, comprising the steps of: a) allocating a user's unique identifier to a requested moving picture multimedia message and storing the moving picture multimedia message with the unique

identifier, if a request for transmission of the moving picture multimedia message is received from an originating mobile station; b) informing a receiving mobile station of arrival of the moving picture multimedia message; c) allowing the receiving mobile station to access the external VOD server, if a download request for the stored multimedia message is received from the receiving mobile Station...". See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since the restriction is complex and the examiner knows from past experience an election will not be made by telephone. This restriction is proper under MPEP 812.01.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Art Unit: 2112

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman, can be reached at (571) 272-3644.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3824

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FA/

Examiner, Art Unit 2112

February 13, 2009